

# A new regulatory framework for tourism in the Balearic Islands

## Law on urgent measures for sustainable and circular tourism

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On Saturday 18 June 2022, Law 3/2022, of 15 June, on urgent measures for the sustainable and circular tourism in the Balearic Islands ("**3/2022 Law**"), approved by the Tourism and Labour Commission during its session of 19 May 2022 and published in the Official Gazette of the Balearic Islands No. 79 of 18 June, came into force.

Law 3/2022 involves a structural amendment of Law 8/2012, of 19 July, on tourism in the Balearic Islands ("**Law 8/2012**"), including a specific section with measures to move towards a circular economy and make the archipelago the first circular tourism destination in the world.

### 1. General considerations

Among other objectives, Law 3/2022 focuses on promoting regenerative tourism in the region and society, encouraging the deseasonalisation of the tourism sector in order to consolidate the leading position of the Balearic Islands as a tourist destination.

To this end, measures such as the reduction of energy consumption in the value chain of the tourism system and the use of reusable, natural and environmentally friendly products are envisaged. In this regard, all tourism companies must have a circular economy plan, which will be valid for 5 years and must include issues such as food, water use, waste and renewable energies, with a ban on fuel/diesel boilers to reduce CO<sub>2</sub><sup>1</sup> emissions.

In addition, Law 3/2022 also allows any interested party to request a report on the legal and technical feasibility of a tourist activity or establishment project from the relevant local council, which must be issued within 2 months of the consultation with the relevant tourist administration.

### 2. Content and main new features of Law 3/2022

The main new features introduced by Law 3/2022 are as follows:

- **Works:** before obtaining the building permit (i.e. building permit or statement of compliance), a favourable report must be obtained from the competent tourism administration<sup>2</sup> which will be valid for 6 months. In addition, the construction project must provide for a reduction in the number of tourist beds in the establishment (i.e. 5%, 3%, 2% or 1% depending on the planned increase in floor space).

All establishments with a maximum of 150 rooms or when no increase in buildability or legally constructed/implemented occupancy is expected are exempt.

<sup>1</sup> Failure to have such a plan in place may lead to the initiation of proceedings with associated fines of €4,001 to €40,000. Failure to replace oil-fired boilers may result in fines of €100,000.

<sup>2</sup> In addition, in the event that, due to the nature of the works, a statement of compliance for the works is processed, a report must be issued by the town council stating that the project complies with the parameters of territorial, urban and tourism planning.

- **Sustainable facilities:** facilities for the use of rainwater or greywater, energy efficiency or renewable energies or for the selective and monitored collection of waste will not be included for urban planning purposes in terms of occupation, buildability, distance to boundaries or height.
- **Wellness hotels:** wellness hotels are included as a new category of tourist establishments. At a minimum, they must have a 4-star rating and have facilities for wellness and beauty treatments (50% of the total building area may be dedicated to this activity).
- **Adjustable beds:** from 2023, establishments must install mechanical/electric adjustable beds. For this purpose, a period of 6 years will be permitted and, in the event of non-compliance, a potential penalty of €500/bed is provided.

Tourist establishments with less than 30 rooms, those located in properties of cultural interest, those that are listed, those that have unique protection or those that are in the old town, are exempt, provided that the historical significance of the structure of the beds is proven.

- **Products of Balearic origin:** from 1 July 2023, tourist establishments must guarantee that, at a minimum, 3% of the products consumed in the establishment are of Balearic origin. The percentage will vary according to the classification of the establishment.

If a minimum consumption of 10% of these products is guaranteed, the "Establishment Committed to Local Production" label can be obtained.

### **3. Additional provisions**

The additional provisions govern, among other things, the suspension, for a maximum period of 4 years, of the acquisition of new tourist beds in Mallorca, Ibiza and Formentera, as well as the exchange of these beds between private individuals to start or expand tourist activity<sup>3</sup> (the "**Suspension of New Tourist Beds**").

Regarding the island of Minorca, the start of new tourist establishment activities is also suspended until an assessment of the island's tourism capacity has been carried out using a tourism intervention plan or the island territorial plan ("**PTI**") to determine the total number of tourist beds that can be marketed.

In any case, the following exceptions to the Suspension of New Tourist Beds should be noted:

- (i) **In the case of Mallorca, Ibiza and Formentera:** the aforementioned suspension shall not apply if among other circumstances, before the entry into force of Law 3/2022, works are being carried out for the opening or expansion of the establishment, a building permit is being processed, a statement of compliance has been submitted for the opening or expansion of an establishment, or if it is a property of cultural interest or a listed property.

Similarly, the Suspension of New Tourist Beds will not apply to sites of cultural interest or listed sites as long as they do not exceed 200 beds in Mallorca, 100 beds in Ibiza and 50 in Formentera, as long as, within 3 months of the entry into force of Law 3/2022, the island councils do not agree to reduce the capacities stated or the town councils determine the non-application of this exception.

<sup>3</sup> The exchange of tourist beds between private individuals is permitted in the case of changes of use of vacant tourist plots to residential, social-health or administrative use, provided that they are classified as urban land. Tourist beds may only be transferred to 4 or 5-star hotels. In addition, 30% of the resulting dwellings will be subject to the protection regime.

- (ii) **In the case of Menorca:** the Suspension of New Tourist Beds will not apply if, among other circumstances, a building permit is obtained within 6 months of the entry into force of Law 3/2022 or the activity is carried out in areas of territorial reconversion in tourist areas provided in the PTI.

Furthermore, the start of youth hostel activities is also suspended until 31 December 2023 or until the new law on educational leisure for children and young people in the Balearic Islands is published.

Additionally, on the island of Formentera, a prior and binding sectoral report is required, in tourism and urban planning matters, for the presentation of the statement of compliance for the commencement of activity when urban planning exemptions are required. This report must be issued within a period of 4 months and, in the absence of a resolution, positive administrative silence shall be deemed to be favourable.

#### **4. Transitional regime**

Law 3/2022 establishes two transitional provisions with the following content:

- (i) Require the application of the new classification criteria, both stars and keys, to new tourist establishments or to those which, since the entry into force of Law 3/2022, change their classification.
- (ii) The interested party who, at the entry into force of Law 3/2022, had an administrative procedure already initiated for the commencement of the tourist activity may choose between (a) its completion with the previous classification criteria or; (ii) submitting a new statement of compliance or prior communication under the new criteria introduced by Law 3/2022.

For these purposes, the file is considered to have been initiated if the statement of compliance or prior communication has been submitted to the relevant Administration.

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